

2009 SEP -4 A 11: 38

ORDINANCE NO. 2009-19

CINDY MURRAY

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF LAFAYETTE,
INDIANA AUTHORIZING THE MAYOR AND/OR CONTROLLER OF THE CITY OF
LAFAYETTE, INDIANA, TO MAKE TEMPORARY LOANS TO MEET CURRENT
OPERATING EXPENSES OF VARIOUS FUNDS OF THE CITY IN ANTICIPATION OF
AND NOT EXCESS OF CURRENT TAXES LEVIED IN THE YEAR 2008, AND
COLLECTABLE IN THE YEAR 2009, AUTHORIZING THE ISSUANCE OF
TEMPORARY LOAN WARRANTS TO EVIDENCE SUCH LOANS AND THE SALE OF
SUCH WARRANTS AND APPROPRIATING AND PLEDGING THE TAXES TO BE
RECEIVED IN SUCH FUNDS TO THE PAYMENT OF SUCH WARRANTS
INCLUDING THERE INTEREST THEREON**

WHEREAS, the Common Council of the City of Lafayette ("City") hereby finds that an emergency exists for the borrowing of money with which to meet the expenses of said City that will be incurred in 2009 to be paid from the City General Fund of said City, which expenses must be met prior to the receipt of the final settlement and distribution of taxes for the year 2008, collectible in the year 2009 and thereafter, and

WHEREAS, the Controller has presented to the Common Council a recommendation that the City issue a temporary loan, subject to the terms hereinafter set forth:

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Common Council of the City of Lafayette, Indiana ("City"), that the City issue a temporary loan warrant for and on behalf of the City General Fund in the aggregate amount of \$8,000,000. The loan shall be used for meeting expenses of the City included in the regular budget and appropriations adopted for the year 2009, which expenses must be met prior to the receipt of the final settlement and distribution of taxes for the year 2009.

Such temporary loan shall be evidenced by warrants of the City dated as of the date of delivery thereof, bearing interest at a rate not to exceed 8% per annum (the exact rate to be determined by bids collected by the Controller), which interest shall be payable at the time of the final payment of the principal of said warrants and said warrants shall mature and be payable as follows:

<u>FUND</u>	<u>TOTAL</u>	<u>MATURING</u>
General	\$8,000,000	December 31, 2009

Interest shall be calculated on a 365 day basis. A sufficient amount of the revenues of the City to be derived from the City General Fund levy is hereby appropriated and pledged for the payment of the principal amount of said warrants to be issued at maturity on account of the taxes for the year 2008, collectible in the year 2009 and thereafter, and a sufficient amount of the revenues of the City to be derived from such Fund is hereby appropriated and pledged for the payment of interest on said warrants at maturity. The Controller of said City is hereby authorized and directed to pay the principal amount of the warrant of the tax revenues of each fund and the

interest on the warrants from the designated Fund upon the presentation thereof at or after maturity. The warrants will be delivered on or about October 20, 2009.

Said warrants shall be signed by the Mayor and the seal of the City shall be affixed thereto and attested by the signature of the Controller of the City.

Said warrants shall be payable at the office of Controller of the City. Said warrants shall, on the face thereof, indicate that it is issued for the City General Fund and payable out of the General Fund's revenues.

Said warrants shall be issued in substantially the following form, all blanks to be properly filled in prior to delivery, to-wit:

No. ____

UNITED STATES OF AMERICA

STATE OF INDIANA

COUNTY OF TIPPECANOE

CITY OF LAFAYETTE, INDIANA
TEMPORARY LOAN WARRANT
GENERAL FUND

FOR VALUE RECEIVED, The City of Lafayette, Indiana, will pay to _____ at the office of the Controller, Tippecanoe County, Indiana, on December 31, 2009, to the extent drawn upon, the maximum sum of _____ Dollars (\$_____) with interest thereon, at the rate of ____% per annum, computed from the date of each draw to the date of repayment, calculated on a 365-day basis. Multiple draws and repayments may be made under this warrant provided that the outstanding principal balance may at no time exceed the lesser of (i) the outstanding undistributed property taxes dedicated to the repayment of this warrant or (ii) \$8,000,000.

This warrant evidences a temporary loan aggregating Eight Million Dollars (\$8,000,000) authorized by Ordinance passed and adopted by the Common Council of Lafayette, Indiana and in accordance with Indiana Code, Article 36, Title 4, Chapter 6, and all other acts amendatory thereof or supplemental thereto, for the purpose of procuring a temporary loan for the General Fund of said City.

This temporary loan warrant has been designated as a qualified tax-exempt obligation pursuant to Section 265(b)(3) of the Internal Revenue Code.

This warrant is issued in anticipation of the tax levy made for the General Fund in the year 2008, collectible in the year 2009 and thereafter, which tax levy is now in the course of collection and to the payment of the principal amount and the interest thereon, of the revenues to be derived from the General Fund levy, a sufficient amount of the revenues to be derived from the General Fund levy has been and is hereby appropriated and pledged.

It is hereby certified that in the execution of this warrant, all provisions of the Constitution and the Statutes of the State of Indiana relating thereto have been complied with, that

the General Fund tax levy from the proceeds from which the principal amount of and interest thereon this warrant is payable, together with other revenues in that Fund, are valid and legal levies; and that said City will reserve a sufficient amount in the General Fund for the payment of the principal of and interest on these warrants.

IN WITNESS WHEREOF, the City of Lafayette, Indiana, has caused this warrant to be signed in its name by the Mayor and attested by the Controller as of the ____ day of October, 2009.

CITY OF LAFAYETTE, INDIANA

By: _____/s/_____
Mayor
City of Lafayette, Indiana

Attest:

_____/s/_____
Controller
City of Lafayette, Indiana

<u>Date</u>	<u>Amount Drawn or Repaid</u>	<u>Outstanding Balance</u>
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*** End of Form of Warrant***

The Controller of the City is hereby authorized and directed to have said warrants prepared in the form herein provided and the Controller is hereby directed to collect bids for the delivery of the warrant. The Controller is hereby authorized and directed to award the and the delivery of the warrants with a financial institution pursuant to the terms of this ordinance in the manner the Controller determines, but in no event at a rate in excess of 8%. Upon the letting of the loan by the Controller, the Mayor, the Clerk and Controller are hereby authorized and directed to execute said warrants in the form herein provided and all necessary certificates and agreements, and the Controller is hereby authorized and directed to deliver said warrants when so executed to the respective purchaser or purchasers thereof, upon payment by said purchaser or purchasers of the purchase price for such warrants, together with the interest, if any, accruing from the date of said warrants to the date of delivery.

In order to preserve the exclusion of interest on any tax exempt series of warrants from gross income for Federal income tax purposes and as an inducement to purchasers of the warrants, the City represents, covenants and agrees that:

a. No person or entity, other than the City or another governmental unit, will use proceeds of the warrants or property financed by the warrant proceeds other than the City or another governmental unit will own property financed by warrant proceeds or will have actual or beneficial use of such property pursuant to a lease, a management or incentive payment contract or to any other type or arrangement that differentiates that person's or entity's use of such property from the use by the public at large.

b. No warrant proceeds will be loaned to any entity or person. No warrant proceeds will be transferred, directly or indirectly, or deemed transferred to a nongovernmental person in any manner that would in substance constitute a loan of the warrant proceeds.

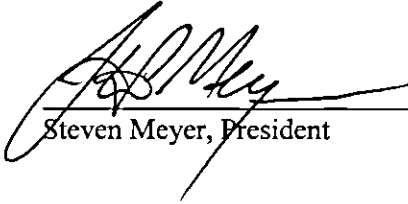
c. The City will, to the extent necessary to preserve the exclusion of interest on the tax-exempt warrants from gross income for federal income tax purposes, rebate all required arbitrage profits on warrant proceeds or other monies treated as warrant proceeds to the federal government as provided in Section 148 of the Internal Revenue Code of 1986, and will set aside such monies in a Rebate Account to be held by the Controller in trust for such purpose.

d. The City will file an information report with the Internal Revenue Service as required by Section 149 of the Internal Revenue Code of 1986.

e. The City will not take any action nor fail to take any action with respect to the warrants that would result in the loss of the exclusion from gross income for federal income tax purposes of interest on the tax-exempt warrants pursuant to Section 103 of the Internal Revenue Code of 1986, as existing on the date of issuance of the warrants, nor will the City act in any other manner which would adversely affect such exclusion.

The City represents that tax-exempt obligations issued by or on behalf of it and any entity subordinate to it in the calendar year 2009 will not exceed \$30,000,000 and that there are no entities to which it is subordinate. The City hereby designates the warrants as qualified obligations for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, relating to the disallowance of 100% of the deduction for interest expense allocable to tax-exempt obligations acquired after August 7, 1986.

ADOPTED AND PASSED BY THE COMMON COUNCIL of the City of Lafayette, Indiana
this 5th day of October, 2009.



Steven Meyer, President

ATTEST:



CINDY MURRAY, City Clerk

Presented by me to the Mayor of the City of Lafayette, Indiana, on this 5th day of
October, 2009.



CINDY MURRAY, City Clerk

This Ordinance approved and signed by me on this 5th day of October, 2009.



TONY ROSWARSKI, Mayor

ATTEST:



CINDY MURRAY, City Clerk

Sponsored by: Ed Chosnek, City Attorney